

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF NEW YORK**

YOUNG AMERICA'S FOUNDATION;  
BINGHAMTON UNIVERSITY  
COLLEGE REPUBLICANS; and JON  
LIZAK, President of the College  
Republicans of Binghamton University,

Plaintiffs,

v.

HARVEY STENGER, President of  
SUNY-Binghamton, in his official and  
individual capacities; BRIAN ROSE, Vice  
President for Student Affairs of SUNY-  
Binghamton, in his official and  
individual capacities; JOHN  
PELLETIER, Chief of SUNY-  
Binghamton UPD, in his official and  
individual capacities; COLLEGE  
PROGRESSIVES, a student organization  
at SUNY-Binghamton; PROGRESSIVE  
LEADERS OF TOMORROW ("PLOT");  
STUDENT ASSOCIATION OF  
BINGHAMTON UNIVERSITY,

Defendants.

Civil Action No. 3:20-cv-822 (LEK/ML)

**Declaration of Steven L. Miller in Support  
of Plaintiffs' Opposition to Masai  
Andrews's Motion to Quash and Plaintiffs'  
Motion for an Order to Show Cause to  
Compel Masai Andrews**

I, Steven L. Miller, declare under penalty of perjury, pursuant to 28 U.S.C. § 1746:

1. I am associated with the law firm of King & Spalding LLP, and am counsel for the Plaintiffs Young America's Foundation, Binghamton University College Republicans, and Jon Lizak in the above-captioned action. I have knowledge of the facts stated in this declaration, and make this declaration in support of Plaintiffs' opposition to Masai Andrews's motion to quash and Plaintiffs' motion for an Order to Show Cause requesting that the Court order non-party Masai Andrews to explain why he is unable to access and produce the records contained in each of Plaintiffs' Subpoena requests.

2. Plaintiffs have demonstrated in numerous filings (*see, e.g.*, ECF Nos. 44 and 57) that Masai Andrews is a leader of Defendant Progressive Leaders of Tomorrow (“PLOT”). Plaintiffs’ filings have shown that Andrews has:
  - a. Led PLOT meetings;
  - b. Organized and led PLOT protests;
  - c. Recruited PLOT members;
  - d. Requested donations to PLOT; and
  - e. Posted frequently on social media, including Facebook, on behalf of PLOT and/or promoting the group’s activities.
3. Plaintiffs demonstrated in those filings that Andrews has consistently attempted to evade the Court’s process in this matter.
4. On September 9, 2021, the Court authorized Plaintiffs to conduct discovery for 45 days to 1) confirm if Aviva Friedman or Masai Andrews are the proper agents of PLOT and 2) confirm other individuals who are proper agents of PLOT. ECF No. 72.
5. On September 15, 2021, Plaintiffs provided Andrews with a *subpoena duces tecum* (the “Subpoena”) via email requiring him to produce documents that were responsive to numerous requests. Plaintiffs served him with same on September 20, 2021. A true and correct copy of the Subpoena is attached as **Exhibit A**.
6. On September 16, 2021, Andrews emailed me and my King & Spalding colleagues, Joe Zales and Hamilton Craig, requesting “that this subpoena be withdrawn, as none of the requested documents are accessible to me.” On September 22, 2021, I replied to Andrews, informing him that “we do not plan to withdraw the subpoena” and that if he did not respond to the Subpoena by the return date listed in the Subpoena, we

would “file a motion with the court to compel [him] to respond.” A true and correct copy of that correspondence is attached as **Exhibit B**.

7. Andrews filed a motion to quash the subpoena on September 24, 2021, again stating that the “documents are inaccessible to me.” ECF No. 76. This is Andrews’s latest attempt to evade the Court’s process.
8. Due to the short window of time for Plaintiffs to conduct discovery, and given Andrews’s repeated evasion of the Court’s process, Plaintiffs do not believe they will be able to complete discovery in a timely manner without further assistance from the Court.
9. Accordingly, Plaintiffs respectfully request that the Court enter an Order to Show Cause compelling Andrews to explain why he is unable to access and produce the records contained in each of Plaintiffs’ Subpoena requests.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in New York, New York on September 29, 2021.



Steven L. Miller